

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:
	: CRIMINAL ACTION
vs.	:
	:
DERRICK GODFREY	: NO. 12-CR-544-1
	:

MEMORANDUM AND ORDER

JOYNER, J.

November 2, 2015

This criminal matter is presently before the Court on *pro se* Motion of Defendant, Derrick Godfrey to Vacate, Set Aside or Correct the Sentence entered against him on December 24, 2014. For the reasons which follow, the motion is denied.

Factual Background

In a grand jury indictment issued on September 27, 2012, Defendant, along with two others, was charged in multiple counts with the crimes of Robbery in Interference with Interstate Commerce under 18 U.S.C. §1951(a); Using, Carrying and Brandishing a Firearm under 18 U.S.C. §924©; and Possession of a Firearm by a Convicted Felon in violation of 18 U.S.C. §922(g)(1). Via superceding indictment issued on August 22, 2013, one of Defendant's proposed co-defendants was dropped but the charges against Defendant Godfrey and his remaining co-defendant were essentially unchanged. More particularly, Defendant was accused of participation in the armed robbery of

two Pennsylvania state Wine and Spirits stores located in Philadelphia and Norristown, PA and a Dunkin Donuts store in West Norriton Township, PA on June 1 and June 2, 2012.

Following his arrest, Defendant proceeding *pro se*, filed numerous pre-trial motions to dismiss the indictment alleging, *inter alia*, that this Court did not have personal or subject matter jurisdiction inasmuch as it is not an Article III court, that his prosecution by the Government deprived him of a number of "fundamental freedoms" and was in violation of numerous Constitutional Amendments and violated his Constitutional rights to speedy trial and due process.¹ Defendant's jury trial commenced on June 23, 2014 and following five days of trial, he was convicted on all but one of the counts against him. On December 17, 2014, Defendant was sentenced to a total of 509 months' imprisonment, 5 years' supervised release, a \$500 special assessment and \$1,959 in restitution. Defendant thereafter filed an appeal to the Third Circuit on December 29, 2014 which remains pending.

On June 12, 2015, Defendant Godfrey filed a *Pro Se* "Petition for Habeas Corpus Ad Subjiciendum Testificandum" in which he alleged that he was "convicted and imprisoned illegally and unconstitutionally restrained of his protected and secured

¹ Indeed, Defendant filed no fewer than seven *pro se*, pre-trial motions raising these claims. The Court considered each motion and, finding all of them to be completely meritless, denied every one.

guaranteed U.S. Constitutional civil liberties of his right to travel and to be free from slavery and involuntary servitude by and through under the color of law of the U.S. District Court process in clear absence of all jurisdiction over the subject matter and petitioner." Inasmuch as it is first necessary to file a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. §2255, we directed the Clerk of Court to provide Petitioner with a blank copy of the court's current standard form for such a motion. This form was promptly furnished and Mr. Godfrey then filed the motion which is now before us using this standard form on July 27, 2015. Once again, Defendant Godfrey bases his claim for relief on this Court's purported lack of jurisdiction.

Governing Standards for 2255 Motions

It has been observed that 28 U.S.C. §2255 provides a vehicle by which prisoners in federal custody may attack the validity of their sentences. See, e.g., DeOca v. United States, Civ. A. No. 01-447-KKJ, 2004 U.S. Dist. LEXIS 481 at *4 (D. Del. Jan. 16, 2004). In relevant part, Section 2255 provides:

(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

(b) Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

Although a district court has discretion whether to order a hearing when a defendant brings a motion to vacate sentence pursuant to §2255, there are nevertheless certain limitations imposed on the exercise of that discretion. U.S. v. Booth, 432 F.3d 542, 545 (3d Cir. 2005). Indeed, as the Third Circuit has noted, “[t]he District Court is required to hold an evidentiary hearing on a §2255 claim ‘unless the motion and files and records of the case show conclusively that the movant is not entitled to relief.’” U.S. v. Lilly, 536 F.3d 190, 195 (3d Cir. 2008) (quoting Booth, supra,); Nembhard v. United States, No. 01-2579, 56 Fed. Appx. 73, 74, 2002 U.S. App. LEXIS 27349 (Dec. 13, 2002) (quoting United States v. Nahodil, 36 F.3d 323, 326 (3d Cir. 1994) and United States v. Day, 969 F.2d 39, 41-42 (3d Cir. 1992)). “Moreover, ‘in considering a motion to vacate a defendant’s sentence, the court must accept the truth of the movant’s factual allegations unless they are clearly frivolous on the basis of the

existing record.'" Lilly, supra, (quoting Gov't of Virgin Islands v. Forte, 865 F.2d 59, 62 (3d Cir. 1989)).

Discussion

To say that Defendant's Motion to Vacate, Set Aside or Correct Sentence is lengthy, prolix and nearly in-comprehensible is something of an understatement. Indeed, Plaintiff's filing is some thirty pages long, includes citations to the Bible and the Uniform Commercial Code and cites a legion of caselaw, almost none of which is remotely on-point. In addition to seeking release from his conviction and prison sentence, Plaintiff's motion also asks for an award of worker's compensation benefits and a "special appointment of power of attorney under Form 56 fiduciary and trustee." Parsing through Defendant's arguments as best as we can, however, it appears that once again the gist of his claim is that the Government lacked the authority to prosecute him and this Court lacked jurisdiction to try him for the crimes for which he was ultimately convicted.

As noted, Defendant advanced this essentially identical argument in each of his pretrial motions to dismiss the indictment against him. Those motions, filed on November 12, 2012, March 21, 2013, August 21, 2013, September 20, 2013, December 2, 2013, May 22, 2014 and May 30, 2014 were all carefully examined and considered by this Court. As we explained in our Order dated July 10, 2013, Defendant's argument is wholly

meritless.

Article III of the U.S. Constitution clearly states in Section I, "[t]he judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. ..." As is reflected in 28 U.S.C. §118, the United States District Court for the Eastern District of Pennsylvania is one of three judicial districts created by Congress for the Commonwealth of Pennsylvania and comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton and Philadelphia. Pursuant to 18 U.S.C. §3231, "[t]he district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States. ..."

Congress also provided for the Office of United States Attorney at 28 U.S.C. §547:

Except as otherwise provided by law, each United States attorney, within his district, shall -

- (1) prosecute for all offenses against the United States;
- (2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;
- (3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;

(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and

(5) make such reports as the Attorney General may direct.

Defendant here was tried and convicted of: (1) Robbery in Interference with Interstate Commerce under 18 U.S.C. §1951(a); (2) Using, Carrying and Brandishing a Firearm under 18 U.S.C. §924©; and (3) Possession of a Firearm by a Convicted Felon in violation of 18 U.S.C. §922(g)(1), as the result of offenses which occurred in Montgomery and Philadelphia Counties, both of which are located within the Eastern District of Pennsylvania. Clearly, this Court had the requisite jurisdiction over this defendant for these crimes and the United States Attorney for this District was obviously empowered to prosecute him.

Defendant also appears to be re-raising the contention that this Court can have no jurisdiction outside of the ten-square-mile area surrounding Washington, D.C., relying upon Article I, §8, Clause 17 of the U.S. Constitution.² This argument, too, was addressed in our July 10, 2013 Order and rejected as unfounded.

² This provision provides that Congress shall have Power

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

We reiterate that although the cited Clause establishes that Congress has general legislative powers over the District of Columbia, it in no way prohibits Congress from exercising its other enumerated legislative powers. See, e.g., U.S. v. Lopez, 514 U.S. 549, 558-560, 115 S. Ct. 1624, 1629-1630, 131 L.Ed 2d 626 (1995) and U.S. v. Shavers, 693 F.3d 363, 371 (3d Cir. 2012) (discussing Constitution's delegation of power to Congress under Commerce Clause extending, *inter alia*, to enacting and authorizing prosecutions under the Hobbs Act, 18 U.S.C. §1951). So saying, we again find no merit to Defendant's arguments and because it is patently clear that he is not entitled to relief from his conviction or sentence, we deny the motion to vacate without a hearing.

An order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:
	: CRIMINAL ACTION
vs.	:
	:
DERRICK GODFREY	: NO. 12-CR-544-1
	:

ORDER

AND NOW, this 2nd day of November, 2015, upon consideration of Defendant's Pro Se Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. §2255 (Doc. No. 203), it is hereby ORDERED that the Motion is DENIED for the reasons set forth in the preceding Memorandum Opinion.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.